

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1139.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF WHITTLE'S EPSOM-LITHIA WATER.

On April 19, 1911, the United States Attorney for the Eastern District of Tennessee, acting upon a report by the Secretary of Agriculture, filed information in the District Court for said district against the Whittle Springs Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about May 23, 1910, from the State of Tennessee into the State of Georgia of a quantity of alleged lithia water which was misbranded. The product was labeled: "Whittle's Epsom-Lithia Water Bottled at Whittle Springs and Health resort in East Tennessee A soft, light water easy assimilated Can be taken on the weakest stomach. This water retains its medicinal properties unimpaired. In cases of Torpid Liver, Nervous Indigestion, Rheumatism, Gout, Diabetes, Bright's Disease, Cystitis, etc., this water will give positive and lasting results. Correspondence solicited. Address Whittle Springs Company, Whittle Springs, East Tennessee, U. S. A." The label bore the following analysis: Gr. per gal. Magnesium Sulphate, 58.29; Aluminum Sulphate, 1.388; Iron Sulphate, 1.44; Manganese Sulphate, trace; Calcium Carbonate, 32.904; Calcium Sulphate, 13.765; Lime Phosphate, trace; Potassium Sulphate, 2.163; Sodium Sulphate, 2.071; Sodium Chloride, .961; Sodium Nitrate, trace; Lithium Sulphate, .229; Silicate, .758; Total, 113.850.

Analysis by the Bureau of Chemistry of the United States Department of Agriculture showed said analysis to be incorrect, and that said water did not contain enough lithia to be designated a lithia water, nor were the ingredients such as to justify the therapeutic claims made for said water. Misbranding was alleged because of the false and misleading statements on the label in the following respects: The constituent elements of said product were not such as to justify the claims made on the label as to the therapeutic efficacy and the product only contained 0.12 part per million of lithium, an

amount insufficient to entitle it to be classified as lithia water; because the label gives what purports to be an authentic analysis of the constituent elements of the product, which analysis is incorrect and misleading; because the words on the label "Epsom-Lithia Water" convey to the public that the product contains a sufficient amount of lithium to produce a therapeutic effect to be expected from water containing an appreciable amount of lithia, when, in fact, it contains but a very slight amount of lithia; and further in that the statement appearing on the label, to wit: "In cases of Torpid Liver, Nervous Indigestion, Rheumatism, Gout, Diabetes, Bright's Disease, Cystitis, etc., this water will give positive and lasting results", is false and misleading, as the correct analysis does not show the presence of ingredients possessing therapeutic properties adequate to effect either positive or lasting results in any of the diseases mentioned.

On June 3, 1911, the defendant corporation pleaded guilty and was fined \$10 and costs. The following order was entered: "Came the United States Attorney and came also the Whittle Springs Co. and W. H. Whittle, and for plea to the information filed against them in this cause say they are guilty in manner and form as charged therein. Whereupon it is considered and adjudged by the court that for their offense the said defendant Whittle Springs Company pay a fine of ten dollars and the costs of the cause, for which let execution issue. The U. S. Attorney not praying judgment against W. H. Whittle, this judgment of fine will not operate as to him. The amount of fine in this cause was fixed by the court at \$10 because it appeared to the court that the default of the defendants constituting a violation of the law was due to their reliance upon the certificate of two chemists and their belief in the correctness of the analyses of said chemists, and because it appeared to the court that since the information was filed herein, the defendants have complied with the requirements of the government in the branding of the water, and said default was not due to any deliberate or intentional violation of or wanton neglect of the provisions of the statute."

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., September 27, 1911.